

Todd M. Friedman (216752)  
Adrian R. Bacon (280332)  
**Law Offices of Todd M. Friedman, P.C.**  
21550 Oxnard St., Suite 780  
Woodland Hills, CA 91367  
Phone: (323) 306-4234  
Fax: (866)633-0228  
tfriedman@toddfllaw.com  
abacon@toddfllaw.com

*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MARTIN CONCEVIDA, individually	)	Case No.
and on behalf of all others similarly	)	
situated,	)	<b><u>CLASS ACTION</u></b>
	)	
Plaintiff,	)	<b>COMPLAINT FOR VIOLATIONS</b>
	)	<b>OF:</b>
vs.	)	
	)	1. NEGLIGENT VIOLATIONS
CONTRACT CALLERS, INC.; DOES	)	OF THE TELEPHONE
1-10, AND EACH OF THEM.	)	CONSUMER PROTECTION
	)	ACT [47 U.S.C. §227 ET
	)	SEQ.]
Defendant(s).	)	2. WILLFUL VIOLATIONS
	)	OF THE TELEPHONE
	)	CONSUMER PROTECTION
	)	ACT [47 U.S.C. §227 ET
	)	SEQ.]
	)	
	)	<b><u>DEMAND FOR JURY TRIAL</u></b>

Plaintiff MARTIN CONCEVIDA (“Plaintiff”), individually and on behalf of all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

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**NATURE OF THE CASE**

1. Plaintiff brings this action individually and on behalf of all others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of CONTRACT CALLERS, INC. (“Defendant”) in negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.

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**JURISDICTION & VENUE**

2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff, a resident of California, seeks relief on behalf of a Class, which will result in at least one class member belonging to a different state than that of Defendant, a company with its principal place of business in Georgia and State of Incorporation in Colorado. Plaintiff also seeks up to \$1,500.00 in damages for each call in violation of the TCPA, which, when aggregated among a proposed class in the thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both diversity jurisdiction and the damages threshold under the Class Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

3. Venue is proper in the United States District Court for the Central District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a) because Defendant does business within the state of California and the Central District of California.

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**PARTIES**

4. Plaintiff, MARTIN CONCEVIDA (“Plaintiff”), is a natural person residing in Venture, California and is a “person” as defined by 47 U.S.C. § 153 (39).

5. Defendant, CONTRACT CALLERS, INC. (“Defendant”), is a company involved in consumer debt buying and recovery/collection and is a

1 “person” as defined by 47 U.S.C. § 153 (39).

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3 **FACTUAL ALLEGATIONS**

4 6. Beginning in and around December 2017, Defendant contacted  
5 Plaintiff on her cellular telephone, ending in -2730, in an attempt to collect an  
6 alleged outstanding debt.

7 7. Defendant used an “automatic telephone dialing system”, as defined  
8 by 47 U.S.C. § 227(a)(1) to place its daily calls to Plaintiff seeking to collect the  
9 debt allegedly owed

10 8. Defendant’s calls constituted calls that were not for emergency  
11 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

12 9. Defendant’s calls were placed to telephone number assigned to a  
13 cellular telephone service for which Plaintiff incurs a charge for incoming calls  
14 pursuant to 47 U.S.C. § 227(b)(1).

15 10. On at least one occasion, Plaintiff answered Defendant’s call and told  
16 Defendant to stop contacting her. In addition, Plaintiff has never provided  
17 Defendant with her telephone information and has never agreed to be contacted  
18 using an automated telephone dialing system. Accordingly, Defendant never  
19 received Plaintiff’s “prior express consent” to receive calls using an automatic  
20 telephone dialing system or an artificial or prerecorded voice on her cellular  
21 telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

22 **CLASS ALLEGATIONS**

23 11. Plaintiff brings this action individually and on behalf of all others  
24 similarly situated, as a member of the proposed class (hereafter “The Class”)  
25 defined as follows:

26 All persons within the United States who received any  
27 collection telephone calls from Defendant to said  
28 person’s cellular telephone made through the use of any

1           automatic telephone dialing system or an artificial or  
2           prerecorded voice and such person had not previously  
3           consented to receiving such calls within the four years  
4           prior to the filing of this Complaint

5           12. Plaintiff represents, and is a member of, The Class, consisting of All  
6           persons within the United States who received any collection telephone calls from  
7           Defendant to said person's cellular telephone made through the use of any  
8           automatic telephone dialing system or an artificial or prerecorded voice and such  
9           person had not previously not provided their cellular telephone number to  
10          Defendant within the four years prior to the filing of this Complaint.

11          13. Defendant, its employees and agents are excluded from The Class.  
12          Plaintiff does not know the number of members in The Class, but believes the Class  
13          members number in the thousands, if not more. Thus, this matter should be  
14          certified as a Class Action to assist in the expeditious litigation of the matter.

15          14. The Class is so numerous that the individual joinder of all of its  
16          members is impractical. While the exact number and identities of The Class  
17          members are unknown to Plaintiff at this time and can only be ascertained through  
18          appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
19          The Class includes thousands of members. Plaintiff alleges that The Class  
20          members may be ascertained by the records maintained by Defendant.

21          15. Plaintiff and members of The Class were harmed by the acts of  
22          Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
23          and Class members via their cellular telephones thereby causing Plaintiff and Class  
24          members to incur certain charges or reduced telephone time for which Plaintiff and  
25          Class members had previously paid by having to retrieve or administer messages  
26          left by Defendant during those illegal calls, and invading the privacy of said  
27          Plaintiff and Class members.

28          16. Common questions of fact and law exist as to all members of The

1 Class which predominate over any questions affecting only individual members of  
2 The Class. These common legal and factual questions, which do not vary between  
3 Class members, and which may be determined without reference to the individual  
4 circumstances of any Class members, include, but are not limited to, the following:

- 5 a. Whether, within the four years prior to the filing of this  
6 Complaint, Defendant made any collection call (other than a  
7 call made for emergency purposes or made with the prior  
8 express consent of the called party) to a Class member using  
9 any automatic telephone dialing system or any artificial or  
10 prerecorded voice to any telephone number assigned to a  
11 cellular telephone service;
- 12 b. Whether Plaintiff and the Class members were damages  
13 thereby, and the extent of damages for such violation; and
- 14 c. Whether Defendant should be enjoined from engaging in such  
15 conduct in the future.

16 17. As a person that received numerous collection calls from Defendant  
17 using an automatic telephone dialing system or an artificial or prerecorded voice,  
18 without Plaintiff's prior express consent, Plaintiff is asserting claims that are  
19 typical of The Class.

20 18. Plaintiff will fairly and adequately protect the interests of the members  
21 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
22 class actions.

23 19. A class action is superior to other available methods of fair and  
24 efficient adjudication of this controversy, since individual litigation of the claims  
25 of all Class members is impracticable. Even if every Class member could afford  
26 individual litigation, the court system could not. It would be unduly burdensome  
27 to the courts in which individual litigation of numerous issues would proceed.  
28 Individualized litigation would also present the potential for varying, inconsistent,

1 or contradictory judgments and would magnify the delay and expense to all parties  
 2 and to the court system resulting from multiple trials of the same complex factual  
 3 issues. By contrast, the conduct of this action as a class action presents fewer  
 4 management difficulties, conserves the resources of the parties and of the court  
 5 system, and protects the rights of each Class member.

6 20. The prosecution of separate actions by individual Class members  
 7 would create a risk of adjudications with respect to them that would, as a practical  
 8 matter, be dispositive of the interests of the other Class members not parties to such  
 9 adjudications or that would substantially impair or impede the ability of such non-  
 10 party Class members to protect their interests.

11 21. Defendant has acted or refused to act in respects generally applicable  
 12 to The Class, thereby making appropriate final and injunctive relief with regard to  
 13 the members of the California Class as a whole.

#### 14 **FIRST CAUSE OF ACTION**

##### 15 **Negligent Violations of the Telephone Consumer Protection Act**

##### 16 **47 U.S.C. §227 et seq.**

17 22. Plaintiff repeats and incorporates by reference into this cause of  
 18 action the allegations set forth above at Paragraphs 1-21.

19 23. The foregoing acts and omissions of Defendant constitute numerous  
 20 and multiple negligent violations of the TCPA, including but not limited to each  
 21 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

22 24. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*  
 23 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory  
 24 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

25 25. Plaintiff and the Class members are also entitled to and seek  
 26 injunctive relief prohibiting such conduct in the future.

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## SECOND CAUSE OF ACTION

### Knowing and/or Willful Violations of the Telephone Consumer Protection Act

**47 U.S.C. §227 et seq.**

26. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-25.

27. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

28. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

29. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

## PRAAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

### FIRST CAUSE OF ACTION

## Negligent Violations of the Telephone Consumer Protection Act

**47 U.S.C. §227 et seq.**

- As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
- Any and all other relief that the Court deems just and proper.

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**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act  
47 U.S.C. §227 et seq.**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

Respectfully Submitted this 27<sup>th</sup> Day of December, 2018.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman  
Todd M. Friedman  
Law Offices of Todd M. Friedman  
Attorney for Plaintiff